

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1094 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA.

and

MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

MUNICIPAL CORPORATION OF CITY OF AHMEDABAD

Versus

UMESH FAMILY TRUST THRO TRUSTEK C SHAH

Appearance:

MR JR NANAVATI for Petitioner

MR JAYANT PATEL for Respondent No. 1

CORAM : MR.JUSTICE R.BALIA. and

MISS JUSTICE R.M.DOSHIT

Date of decision: 17/11/1999

ORAL JUDGEMENT

Heard the learned counsels for the parties.

The petitioner Ahmedabad Municipal Corporation
challenges the order dated 26th July, 1984, passed in

Municipal Valuation Appeal No. 5672/83 by the Small Cause Court at Ahmedabad. The property was assessed at Rs. 1656/- in the year 1977-78 and for 1982-83, the gross rateable valuation was increased to Rs.11,500/- by the Municipal Corporation which was affirmed by the Municipal Appellate Officer. Appeal was preferred before the Small Cause Court at Ahmedabad under the provisions of the Act. The court noticed that the appellant-owner is personally using it for his business; that some old structure is in existence, and there is no change in it. Therefore, there was no reason for the Corporation to increase its valuation to Rs. 11,500/- without any material. The only ground raised in this petition is that the Corporation has assessed the rateable value at Rs. 11,500/- by taking the monthly rent of the premises at Rs.700/-. In the reply affidavit, it has been denied that the land is belonging to Atmaram and Amrutlal Somnath and the respondent-Trust is a tenant at the monthly rent of Rs. 700/- PM. As a matter of fact, the respondent-Trust is the owner of the premises in question and on 18th November, 1981, the premises in question is already transferred in favour of the respondent-Trust, and the Resolution to that effect is also passed by the Small Scale Co-operative Industrial Estate Ltd., Ahmedabad. A copy of the same has already been produced along with the affidavit in reply, along with the copy of the entry in the Small Scale Co-Operative Industrial Estate Ltd. Ahmedabad dated 16th November, 1981. In the rejoinder affidavit what has been stated is that the respondents have informed about change only in the year 1986.

Having heard the learned counsel for the parties, we are of the opinion that the mere fact that the respondent has not informed about the change in the nature of their possession in time, can not result in change in the measure of assessment required in the case of self-occupied premises, if as a matter of fact, the property as on the relevant date is self-acquired. The fact that the property was occupied by the respondent as owner is not denied in the rejoinder. In the aforesaid circumstances, the Small Cause Court has allowed the appeal on finding of facts which are not required to be interfered with. No case is made out for interference.

Petition is dismissed. Rule is discharged. No order as to costs.

JOSHI